IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN
&
THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

TUESDAY, THE 10TH APRIL 2007 / 20TH CHAITHRA 1929

WP(C).No. 8267 of 2007(H)

RCRP.5/2006 of RENT CONTROL APPELLATE AUTHORITY, KOTTAYAM
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PETITIONERS:
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1. AMMINI PUNNOOSE, W/O LATE K.P.PUNNOOSE,
   PARAPPALLIL HOUSE, KURICHY VILLAGE,
   KOTTAYAM.

2. RENJU PUNNOOSE, S/O LATE K.P.PUNNOOSE,
   PARAPPALLIL HOUSE, KURICHY VILLAGE,
   KOTTAYAM.

BY ADV. SRI.M.P.MADHAVANKUTTY
SRI.GOKUL DAS V.V.H.

RESPONDENTS:

K.M.MARKOSE, S/O LATE REV.FR.K.C.MARKOSE
KELACHANDRA, CHINGAVANAM,
KOTTAYAM.

BY ADV. SRI PHILIP T. VARGHESE

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 10/04/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXTS:

EXT.P1 TRUE COPY OF COMMON JUDGMENT DTD. 15/1/1998 IN R.C.O.P. NOS.19/94,20/94,22/94,23/94 AND 24/94 OF THE ADDL. MUNSIFF, KOTTAYAM.

EXT.P2 TRUE COPY OF COMMON JUDGMENT DTD. 31/1/2003 IN R.C.A.NOS.58/98, 59/98 & 63/98 OF THE COURT OF THE RENT CONTROL APPELLATE AUTHORITY (SPL.), KOTTAYAM.

EXT.P3 TRUE COPY OF ORDER DTD. 7/10/2004 IN RENT CONTROL REVISION NO.179/2003.

EXT.P4 TRUE COPY OF ORDER DTD. 11/12/2006 IN E.P.NO.199/2004 IN R.C.O.P.NO.23/1994 OF THE COURT OF THE PRINCIPAL RENT CONTROLLER, KOTTAYAM.

EXT.P5 TRUE COPY OF RENT CONTROL REVISION MEMORANDUM DTD. 14/12/2006 FILED BY PETITIONERS BEFORE THE RENT CONTROL APPELLATE AUTHORITY, KOTTAYAM DISTRICT.

EXT.P6 TRUE COPY OF ORDER DTD. 24/2/2007 IN R.C.R.P. NO.5/2006 OF THE RENT CONTROL APPELLATE AUTHORITY, KOTTAYAM.

P.R.RAMAN & ANTONY DOMINIC,JJ.

W.P.(C).NO.8267 OF 2007

Dated this the 10th day of April, 2007

JUDGMENT

Raman,J.

Petitioners are the legal heirs of the tenant, against whom the order of eviction was passed by the Rent Control Court, affirmed by the Appellate Authority and by this Court in revision. Subsequently, execution proceedings were initiated by the landlord. Tenant is ordered to be evicted on the ground of reconstruction of the building. At the execution stage also the tenant created obstacles from taking delivery of the property raising untenable grounds. According to him, as per the original order of the Rent Control Court an updated plan was to be produced. The Rent Control Court has found in paragraph 4 of Ext.P4 that the landlord has produced the modified plan which was approved by the concerned local authorities and the petitioners herein had no case that no such space is provided in the plan or the space provided in the plan is not sufficient for their requirements. The contention was that since the building is on the side of the M.C. Road, there is a chance of widening the road and so permission from the K.S.T.P. and P.W.D. and Executive Engineer of Roads, P.W.D. etc. is necessary. Such

contentions were not at all raised earlier. As per the order of the Rent Control Court as affirmed by the Appellate Authority and this Court, only a modified plan providing space for the workshop of the respondents approved by the concerned local authority has to be produced, which has been done in this case. It was found that permission from the so called K.S.T.P. and P.W.D. and Executive Engineer is not necessary. The respondent also submits that no such permission is required, as per the communication from that department itself. The objections were overruled and delivery was ordered. The petitioners preferred a revision before the Appellate Authority. The Appellate Authority also dismissed the revision, against which the present writ petition is filed.

2. We have perused the orders passed by the Rent Control Court as well as the Appellate Authority. We find that there is no miscarriage of justice in the matter warranting interference under Article 226 of the Constitution of India. Both the Rent Control Court and the Appellate Authority found that modified plan has been produced. Since the tenant is sought to be evicted for reconstruction of the building, necessarily the landlord has to get the tenant evicted so as to complete the construction, which will only enable the petitioners herein to get possession, after

reconstruction. In these circumstances, there cannot be any further delay in the matter.

We find no merit in this writ petition. It is accordingly dismissed.

P.R.RAMAN,
Judge.

ANTONY DOMINIC,
Judge.

kcv.